

personnel subject to screening will be required to sign a non-disclosure agreement approved in advance by DHS, DOJ, FBI, and DOD.

- (b) If DHS, DOJ, FBI, or DOD so desires, it may on its own, or through OPM's investigation service, conduct further background checks for screened personnel. VSNL America and VSNL US will cooperate with any such further background checks.
- (c) Individuals who are rejected by VSNL America or VSNL US, or by DHS, DOJ, FBI, or DOD, under the screening requirements of this Section will not be hired, or, if they have begun their employment, will be immediately removed from their positions, or otherwise have their duties immediately modified so that they are no longer performing a function that would require screening under this Section. Written notification of rejection by DHS, DOJ, FBI, or DOD shall be provided to VSNL America or VSNL US within a reasonable time, no longer than thirty (30) days after receipt of such rejection, in accordance with Section 5.14. VSNL America or VSNL US will notify the DHS, DOJ, FBI, and DOD of the transfer, departure, or job modification of any individual rejected as a result of the screening conducted pursuant to this Section within seven (7) days of such transfer, departure, or modification, and shall provide DHS, DOJ, FBI, and DOD with the name, date of birth and social security number of the individual.
- (d) VSNL America and VSNL US shall provide training to instruct screened personnel as to their obligations under the Agreement, the maintenance of their trustworthiness determination after screening, and any other requirements otherwise agreed upon. VSNL America and VSNL US shall monitor on a regular basis the status of screened personnel, and shall remove screened personnel who no longer meet the requirements set forth for screened personnel.
- (e) VSNL America and VSNL US shall maintain records relating to the status of screened personnel, and shall provide these records, upon request, to DHS, DOJ, FBI, or DOD.

ARTICLE 4: DISPUTES

4.1 **Informal Resolution.** The Parties shall use their best efforts to resolve any disagreements that may arise under this Agreement. Disagreements shall be addressed, in the first instance, at the staff level by the Parties' designated representatives. Any disagreement that has not been resolved at that level shall be submitted promptly to the General Counsel of VSNL America, the General Counsel of VSNL US, the General Counsel of the FBI, the Assistant Attorney General for the Criminal Division of the DOJ, the Assistant Secretary for Infrastructure Protection of the DHS, and the General Counsel of the DOD, or their respective designees, unless DHS, DOJ, FBI, or DOD believes that important national interests can be protected, or VSNL America or VSNL US believes that paramount commercial interests can be resolved, only by resorting to the measures set forth in Section 4.2. If, after meeting with higher authorized officials, any of the Parties determines that further negotiation would be fruitless, then that Party may resort to the remedies set forth in Section 4.2. If resolution of a disagreement requires

access to Classified Information, the Parties shall designate a person or persons possessing the appropriate security clearances for the purpose of resolving that disagreement.

4.2 **Enforcement of Agreement.** Subject to Section 4.1 of this Agreement, if any of the Parties believes that any other party has breached or is about to breach this Agreement, that Party may bring an action against the other Party for appropriate judicial relief. Nothing in this Agreement shall limit or affect the right of a U.S. Government Agency to:

- (a) require that the Party or Parties believed to have breached, or about to breach, this Agreement cure such breach within thirty (30) days, or whatever shorter time period is appropriate under the circumstances, upon receiving written notice of such breach; or
- (b) request that the FCC modify, condition, revoke, cancel, or render null and void any license, permit, or other authorization granted or given by the FCC to VSNL America or VSNL US, or request that the FCC impose any other appropriate sanction, including but not limited to a forfeiture or other monetary penalty, against VSNL America or VSNL US; or
- (c) seek civil sanctions for any violation by VSNL America, VSNL US or an Affiliate of any U.S. law or regulation or term of this Agreement; or
- (d) pursue criminal sanctions against VSNL America or VSNL US, or any director, officer, employee, representative, or agent of VSNL America or VSNL US, or against any other person or entity, for violations of the criminal laws of the United States; or
- (e) seek suspension or debarment of VSNL America or VSNL US from eligibility for contracting with the U.S. Government.

4.3 **Irreparable Injury.** VSNL, for itself and for VSNL America and VSNL US, agrees that the United States would suffer irreparable injury if for any reason VSNL, VSNL America or VSNL US failed to perform any of its material obligations under this Agreement, and that monetary relief would not be an adequate remedy. Accordingly, VSNL, for itself and for VSNL America and VSNL US, agrees that, in seeking to enforce this Agreement, DHS, DOJ, FBI, and DOD shall be entitled, in addition to any other remedy available at law or equity, to specific performance and injunctive or other equitable relief.

4.4 **Waiver.** The availability of any civil remedy under this Agreement shall not prejudice the exercise of any other civil remedy under this Agreement or under any provision of law, nor shall any action taken by a Party in the exercise of any remedy be considered a waiver by that Party of any other rights or remedies. The failure of any Party to insist on strict performance of any of the provisions of this Agreement, or to exercise any right they grant, shall not be construed as a relinquishment or future waiver; rather, the provision or right shall continue in full force. No waiver by any Party of any provision or right shall be valid unless it is in writing and signed by the Party.

4.5 **Waiver of Immunity.** VSNL, for itself and for VSNL America and VSNL US, agrees that, to the extent that it or any of its property (including FCC licenses and authorizations and intangible property) is or becomes entitled at any time to any immunity on the ground of sovereignty or otherwise based upon a status as an agency or instrumentality of government from any legal action, suit or proceeding or from setoff or counterclaim relating to this Agreement, from the jurisdiction of any competent court or the FCC, from service of process, from attachment prior to judgment, from attachment in aid of execution of a judgment, from execution pursuant to a judgment or arbitral award, or from any other legal process in any jurisdiction, it, for itself, VSNL America and VSNL US and its property expressly, irrevocably and unconditionally waives, and agrees not to plead or claim, any such immunity with respect to matters arising with respect to this Agreement or the obligations herein (including any obligation for the payment of money) in any proceeding brought by a U.S. federal, state or local Government Authority. VSNL agrees that the waiver in this provision is irrevocable and is not subject to withdrawal in any jurisdiction or under any statute, including the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602 *et seq.* The foregoing waiver shall constitute a present waiver of immunity at any time any action is initiated by a U.S. federal, state or local Government Authority against VSNL, VSNL America or VSNL US with respect to compliance with this Agreement.

4.6 **Forum Selection.** It is agreed by and between the Parties that a civil action among the Parties for judicial relief with respect to any dispute or matter whatsoever arising under, in connection with, or incident to, this Agreement shall be brought, if at all, in the United States District Court for the District of Columbia.

4.7 **Effectiveness of Article 4.** This Article 4, and the obligations imposed and rights conferred herein, shall become effective upon the execution of this Agreement by all the Parties.

ARTICLE 5: AUDITING, REPORTING, NOTICE AND LIMITS

5.1 **Filings re de jure or de facto control of VSNL America or VSNL US.** If VSNL America or VSNL US makes any filing with the FCC or any other Government Authority relating to the *de facto* or *de jure* control of VSNL America or VSNL US except for filings with the FCC for assignments or transfers of control that are *pro forma*, VSNL America or VSNL US shall promptly provide to DHS, DOJ, FBI, and DOD written notice and copies of such filing. This Section 5.1 shall become effective upon execution of this Agreement by all the Parties.

5.2 **Control of VSNL America and VSNL US.** If any member of the senior management of VSNL, VSNL America or VSNL US (including senior officers and members of the Board of Directors) acquires any information that reasonably indicates that any single foreign entity or individual, other than the Government of India, has or will likely obtain an ownership interest (direct or indirect) in VSNL America **or VSNL US** above 10 percent, as determined in accordance with 47 C.F.R. § 63.09, or if any foreign entity or individual, singly or in combination with other foreign entities or individuals, has or will likely otherwise gain either (1) Control or (2) *de facto* or *de jure* control of VSNL America or VSNL US, then such senior manager shall promptly cause VSNL America or VSNL US through its Security Officer to notify DHS, DOJ, FBI, and DOD in writing within ten (10) calendar days. Notice under this Section 5.2 shall, at a minimum:

- (a) Identify the entity or individual(s) (specifying the name, addresses and telephone numbers of the entity);
- (b) Identify the beneficial owners of the increased or prospective increased interest in VSNL America or VSNL US by the entity or individual(s) (specifying the name, addresses and telephone numbers of each beneficial owner); and
- (c) Quantify the amount of ownership interest that the entity or individual(s) has or will likely obtain in VSNL America or VSNL US and, if applicable, the basis for their prospective Control of VSNL America or VSNL US.

5.3 **Joint Ventures.** In the event that VSNL America or VSNL US enters into joint ventures or other arrangements under which the joint venture or another entity may provide Domestic Communications:

- (a) If VSNL, VSNL America or VSNL US has the power or authority to exercise *de facto* or *de jure* control over such entity, then VSNL America or VSNL US will require the entity to fully comply with the terms of this Agreement.
- (b) To the extent VSNL, VSNL America or VSNL US does not have *de facto* or *de jure* control over such joint venture or entity, the provisions of Section 5.4, Outsourcing Contracts, shall apply as if the joint venture or other arrangement was an Outsourcing Contract.

5.4 **Outsourcing Contracts.** VSNL America and VSNL US shall not enter into an Outsourcing Contract that affords the contractor access to Sensitive Information. In any Outsourcing Contract, VSNL America and VSNL US shall take reasonable steps to ensure that the contractor complies with the applicable terms of this Agreement. Such steps shall include the following:

- (a) VSNL America and VSNL US shall include written provisions in the Outsourcing Contract that require the contractor to comply with all applicable terms of this Agreement or shall take other reasonable, good-faith measures to ensure that the contractor is aware of, agrees to, and is bound to comply with all such terms.
- (b) If the contractor may perform any of the contracted-for services outside the United States, or is identified after reasonable inquiry by VSNL America or VSNL US as either Controlled by one or more foreign persons or combination of foreign persons under common Control, or as having ten (10) percent or more of its voting equity held, directly or indirectly, by one or more foreign persons or combination of foreign persons under common Control, then:
 - (i) no later than 30 days before the Outsourcing Contract becomes effective, VSNL America or VSNL US shall notify the DHS, DOJ, FBI, and DOD in writing, identifying the name of the entity, describing the functions covered by this Agreement, and attaching a complete copy of the Outsourcing Contract; and

- (ii) DHS, DOJ, FBI, and DOD will have 30 days from receipt of the notice to review and provide VSNL America or VSNL US with any objection to the Outsourcing Contract, which shall be based on national security, law enforcement, or public safety grounds. If DHS, DOJ, FBI, or DOD objects in accordance with this section, VSNL America or VSNL US shall not proceed with execution or performance of the Outsourcing Contract.
- (c) Neither VSNL, VSNL America nor VSNL US shall induce the contractor to violate its obligations to VSNL America or VSNL US related to this Agreement or to take any action that, if taken by VSNL America or VSNL US, would violate this Agreement.
- (d) If VSNL, VSNL America or VSNL US receives information that reasonably indicates that the contractor or any of its employees or agents has taken an action that, had it been taken by VSNL America or VSNL US, would violate a provision of this Agreement, or has violated its obligations to VSNL America or VSNL US related to this Agreement, VSNL America or VSNL US (1) will notify DHS, DOJ, FBI, and DOD promptly, and (2) in consultation and cooperation with the DHS, DOJ, FBI, and DOD, will take reasonable steps necessary to rectify promptly the situation, including terminating the Outsourcing Contract (with or without notice and opportunity for cure) or initiating and pursuing litigation or other remedies at law and equity.
- (e) Neither an Outsourcing Contract nor any provision of this Section 5.4 does nor shall it be construed to relieve VSNL, VSNL America or VSNL US of any of its obligations under this Agreement.

5.5 **Notice of Foreign Influence.** If any member of the senior management of VSNL, VSNL America or VSNL US (including senior officers and members of the Board of Directors) acquires any information that reasonably indicates that any foreign government, any foreign government-controlled entity, or any foreign entity:

- (a) plans to participate or has participated in any aspect of the day-to-day management of VSNL America or VSNL US in such a way that interferes with or impedes the performance by VSNL America or VSNL US of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by VSNL America or VSNL US of its rights under the Agreement, or foreseeably concerns the obligations of VSNL America or VSNL US under this Agreement, or
- (b) plans to exercise or has exercised, as a direct or indirect shareholder of VSNL America, VSNL US or their subsidiaries, any Control of VSNL America or VSNL US in such a way that interferes with or impedes the performance by VSNL America or VSNL US of its duties and obligations under the terms of this Agreement, or interferes with or impedes the exercise by VSNL America or VSNL US of its rights under the terms of this Agreement, or foreseeably concerns VSNL America's or VSNL US's obligations under this Agreement,

then such senior manager shall promptly notify the appropriate Security Officer who shall, in turn, promptly notify DHS, DOJ, FBI, and DOD in writing of the timing and the nature of the foreign government's or entity's plans or actions.

5.6 **Procedure and Process on Reporting.** Within fourteen (14) days of the Effective Date, VSNL America and VSNL US shall adopt and distribute to all officers, directors, employees, contractors, and agents a procedure and process for the reporting by officers, directors, employees, contractors, and agents of noncompliance with this Agreement. This procedure and process shall provide for the reporting of the information required in Sections 5.2, 5.4, 5.5, and 5.9 of this Agreement, and shall set forth in a clear and prominent manner the contact information for the Security Officer to whom such information may be reported.

5.7 **Non-retaliation.** Within one month after the Effective Date, VSNL America and VSNL US shall, by duly authorized action of its Board of Directors, adopt and distribute an official corporate policy that strictly prohibits VSNL America or VSNL US from discriminating or taking any adverse action against any officer, director, employee, contractor, or agent because he or she has in good faith initiated or attempted to initiate a notice or report under Sections 5.2, 5.4, 5.5, or 5.9 of this Agreement, or has notified or attempted to notify the Security Officer to report information that he or she believes in good faith is required to be reported to DHS, DOJ, FBI, or DOD by the Security Officer under Sections 5.2, 5.4, 5.5, or 5.9 of this Agreement. Any violation by VSNL America or VSNL US of any material term of such corporate policy shall constitute a breach of this Agreement.

5.8 **Security Audit.** VSNL America and VSNL US shall conduct annual audits to assess their compliance with the terms of this Agreement, and shall furnish DHS, DOJ, FBI, and DOD with a report in accordance with Section 5.12 of this Agreement. After the execution of this Agreement and at least three months prior to commencing an audit, VSNL America and VSNL US shall provide DHS, DOJ, FBI, and DOD with the terms of the audits defining their scope and purpose. DHS, DOJ, FBI, and DOD shall have the right to review and approve these terms. VSNL, VSNL America and VSNL US shall ensure that the auditor has full and unimpeded corporate authority to conduct the audits without restriction or limitation by any officer, director, employee, contractor or agent of VSNL, VSNL America or VSNL US. The terms defining the scope and purpose of the audits shall include, at a minimum, authority for the auditor to review and analyze: (1) VSNL America and VSNL US policies and procedures designed to implement this Agreement; (2) all relevant information related to the configuration of the VSNL America and VSNL US network; (3) all minutes of meetings held or actions taken by the VSNL, VSNL America or VSNL US Board of Directors or Committees of the Board in accordance with this Agreement; and (4) all Security Officer logs and records including records related to facility visits, personnel screening data, and any reports submitted in accordance with Section 5.9 of this Agreement. In addition, such terms shall include authority for the auditor to conduct a reasonable number of: (1) unannounced inspections of the VSNL America and VSNL US facilities each year, (2) random testings of network firewalls, access points and other systems for potential vulnerabilities, and (3) confidential interviews of VSNL, VSNL America and VSNL US officers, directors, employees, contractors or agents concerning compliance with this Agreement. Upon request, VSNL America and VSNL US shall provide DHS, DOJ, FBI, or DOD with access to facilities, information, and personnel consistent with Sections 5.10 and 5.11

below in the event that DHS, DOJ, FBI, or DOD wishes to conduct its own annual audit of VSNL America's or VSNL US's compliance with this Agreement.

5.9 **Reporting of Incidents.** VSNL America and VSNL US shall report to DHS, DOJ, FBI, and DOD any information acquired by VSNL America, VSNL US or any of their officers, directors, employees, contractors or agents that reasonably indicates:

- (a) a breach of this Agreement;
- (b) access to or disclosure of Domestic Communications, or the conduct of Electronic Surveillance, in violation of federal, state or local law or regulation;
- (c) access to or disclosure of CPNI or Subscriber Information in violation of federal, state or local law or regulation (except for violations of FCC regulations relating to improper commercial use of CPNI); or
- (d) improper access to or disclosure of Classified, Sensitive, or Controlled Unclassified Information.

This report shall be made in writing by the appropriate Security Officer to DHS, DOJ, FBI, and DOD no later than ten (10) calendar days after VSNL America or VSNL US acquires information indicating a matter described in this Section. VSNL America and VSNL US shall lawfully cooperate in investigating the matters described in this Section. VSNL America and VSNL US need not report information where disclosure of such information would be in violation of an order of a court of competent jurisdiction in the United States.

5.10 **Access to Information and Facilities.** DHS, DOJ, FBI, or DOD may visit any part of VSNL America's or VSNL US's Domestic Communications Infrastructure and security offices to conduct on-site reviews concerning the implementation of the terms of this Agreement and may at any time require unimpeded access to information concerning technical, physical, management, or other security measures needed by DHS, DOJ, FBI, or DOD to verify compliance with the terms of this Agreement.

5.11 **Access to Personnel.** Upon reasonable notice from DHS, DOJ, FBI, or DOD, VSNL America and VSNL US shall make available for interview any officers or employees of VSNL America or VSNL US and any contractors located in the United States, who are in a position to provide information to verify compliance with the terms of this Agreement.

5.12 **Annual Report.** On or before the last business day of January of each year after the Effective Date, the Chief Executive Officer or a designated senior corporate officer of VSNL America and VSNL US shall each submit to DHS, DOJ, FBI, and DOD a report assessing VSNL America's and VSNL US's compliance with the terms of this Agreement for the preceding calendar year. The report shall include:

- (a) a copy of all security audit reports compiled following an audit conducted pursuant to Section 5.8 of this Agreement;
- (b) a copy of the policies and procedures adopted to comply with this Agreement;

- (c) a summary of changes, if any, to the policies and procedures, and the reasons for those changes;
- (d) a summary of any known acts of material noncompliance with the terms of this Agreement, whether inadvertent or intentional, with full disclosure of what steps have been or will be taken to prevent such acts from occurring in the future; and
- (e) identification of any other issues that will or could affect the effectiveness of or compliance with this Agreement.

VSNL America and VSNL US shall make available to the Security Officer in a timely fashion all information necessary to prepare the report required by this Section.

5.13 Information and Reports Concerning Network Architecture. If requested by DHS, DOJ, FBI, or DOD, VSNL America or VSNL US shall provide to DHS, DOJ, FBI, and DOD the following information regarding the interconnections and control of the Domestic Communications Infrastructure:

- (a) A description of the plans, processes and procedures, relating to network management operations, that prevent the Domestic Communications Infrastructure from being accessed or controlled from outside the United States.
- (b) A description of the placement of the Network Operations Center and interconnection (for service offload or administrative activities) to other domestic and international carriers, Internet service providers ("ISPs"), and critical U.S. financial, energy, and transportation infrastructures.
- (c) A description of VSNL America's or VSNL US's networks and operations processes, procedures for management control and relation to the backbone infrastructures of other service providers.
- (d) A description of any unique or proprietary control mechanisms of VSNL America or VSNL US, as well as VSNL America's or VSNL US's operating and administrative software.
- (e) A report of Network Management Information that includes an assurance that network performance satisfies FCC rules and reporting requirements.

Once a report has been made under this Section 5.13, VSNL America and VSNL US shall promptly report any material changes, upgrades or modifications to the items described in (a)-(e) above, including the installation of critical equipment and software. For the purposes of this section, critical equipment and software shall include: routers, switches, gateways, network security appliances, network management/test equipment, operating systems and network and security software (including new versions, patches, upgrades, and replacement software), and other hardware, software, or systems performing similar functions. Monitors, desktop computers, desktop computer applications, disk drives, power supplies, printers, racks and the like are not "critical equipment or software" unless they perform functions similar to those of the items described in (a)-(e) above. Similarly, "material" shall refer to those changes, modifications

and upgrades that alter network operating characteristics or architecture, and does not apply to spare parts replacement, the one-for-one swapping of identical equipment or the related re-loading of system software or backups; provided, however, that network security configuration and capabilities remain unchanged.

5.14 **Notices.** Effective upon execution of this Agreement by all the Parties, all notices and other communications relating to this Agreement, such as a proposed modification, shall be in writing and shall be deemed given as of the date of receipt and shall be (a) delivered personally, or (b) sent by facsimile, or (except as noted below) (c) sent by documented overnight courier service, or (d) sent by registered or certified mail, postage prepaid, addressed to the Parties' designated representatives at the addresses shown below, or to such other representatives at such others' addresses as the Parties may designate in accordance with this Section:

Department of Justice
Assistant Attorney General
Criminal Division
Main Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Federal Bureau of Investigation
General Counsel
935 Pennsylvania Avenue, NW
Washington, DC 20535

With a copy to:
Federal Bureau of Investigation
The Assistant Director
National Security Division
935 Pennsylvania Avenue, NW
Washington, DC 20535

Department of Homeland Security
Washington, D.C. 20528
Attn: Assistant Secretary for Infrastructure Protection
Note: All notices and other communications shall, in addition to the foregoing methods of delivery, be sent in email to Tina.Gabbrielli@dhs.gov or such other email account as DHS may designate in the future.

Department of Defense
Director of Information Assurance
Rm. 3D-239 Pentagon
Washington, D.C. 20301-6000

Mr. Satish Ranade
Company Secretary and Vice President (Legal)
Videsh Sanchar Nigam Limited

Videsh Sanchar Bhavan
M.G. Road
Mumbai, India 400 001

With a copy to:
Robert J. Aamoth, Esq.
Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
(202) 955-9676 (telephone number)
(202) 955-9792 (fax number)
raamoth@kelleydrye.com

Mr. Satish Ranade
President, VSNL America, Inc.
c/o Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
Attn: Robert J. Aamoth, Esq.

Mr. N. Srinath
President, VSNL Telecommunications (US), Inc.
c/o Kelley Drye & Warren LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
Attn: Robert J. Aamoth, Esq.

With a copy to:
Director, Legal and Commercial Affairs
VSNL International
#22-07, UIC Building
5 Shenton Way
Singapore 068808

5.15 **Compliance Assurance.** VSNL will take all steps necessary to ensure that VSNL America and VSNL US comply with the terms of this Agreement.

ARTICLE 6: FREEDOM OF INFORMATION ACT

6.1 **Protection from Disclosure.** DHS, DOJ, FBI, and DOD shall take all reasonable measures to protect from public disclosure all information submitted by VSNL, VSNL America and VSNL US (or other entities in accordance with the terms of this Agreement) to DHS, DOJ, FBI, or DOD in connection with this Agreement and clearly marked with the legend "Business Confidential; subject to protection under 5 U.S.C. § 553(b); not to be released without notice to the filing party" or similar designation. Such markings shall signify that it is the company's position that the information so marked constitutes "trade secrets" and/or "commercial or financial information obtained from a person and privileged or confidential," or otherwise warrants protection within the meaning of 5 U.S.C. § 552(b)(4). For the purposes of 5 U.S.C. § 552(b)(4), the Parties agree that information so marked is voluntarily submitted. If a request is made under 5 U.S.C. § 552(a)(3) for information so marked, and disclosure of any information (including disclosure in redacted form) is contemplated, DHS, DOJ, FBI, or DOD, as appropriate, shall notify the company of the intended disclosure as provided by Executive Order 12600, 52 Fed. Reg. 23781 (June 25, 1987). If VSNL America or VSNL US objects to the intended disclosure and its objections are not sustained, DHS, DOJ, FBI, or DOD, as appropriate, shall notify the company of its intention to release (as provided by Section 5 of E.O. 12600) not later than five (5) business days prior to disclosure of the challenged information.

6.2 **Use of Information for U.S. Government Purposes.** Nothing in this Agreement shall prevent DHS, DOJ, FBI, or DOD from lawfully disseminating information as appropriate to seek enforcement of this Agreement, or from lawfully sharing information as appropriate with other federal, state, or local Government Authorities to protect public safety, law enforcement, or national security interests, provided that DHS, DOJ, FBI, and DOD take all reasonable measures to protect from public disclosure the information marked as described in Section 6.1. Further, nothing in this Agreement shall limit DHS's, DOJ's, FBI's, or DOD's ability to disclose this Agreement or any information related to this Agreement to enforce or comply with any federal laws or regulations.

ARTICLE 7: FCC CONDITION AND CFIUS

7.1 **FCC Approval.** Upon the execution of this Agreement by all the Parties, DHS, DOJ, FBI, and DOD shall, on their own motion at an appropriate time or at the request of VSNL US, notify the FCC that, provided the FCC adopts a condition substantially the same as set forth in Exhibit A attached hereto (the "Condition to FCC Authorization"), DHS, DOJ, FBI, and DOD have no objection to the FCC's grant of the Tyco/VSNL Application. This Section is effective upon execution of this Agreement by all the Parties, provided however that in the case of a material modification or withdrawal of the Tyco/VSNL Application after the execution of this Agreement the effectiveness of this Section may be suspended by DHS, DOJ, FBI, and DOD, or the DHS, and the right of objection reserved in Section 7.2 may be invoked.

7.2 **Future Applications.** VSNL, VSNL America and VSNL US agree that in any application or petition by VSNL, VSNL America or VSNL US to the FCC for licensing or other authority filed with or granted by the FCC after the execution of this Agreement, except with respect to *pro forma* assignments or *pro forma* transfers of control, VSNL, VSNL America or VSNL US shall request that the FCC condition the grant of such licensing or other authority on compliance with the terms of this Agreement. Notwithstanding Section 8.9, DHS, DOJ, FBI,

and DOD reserve the right to object, formally or informally, to the grant of any other FCC application or petition of VSNL America, VSNL US or their Affiliates for a license or other authorization under Titles II and III of the Communications Act of 1934, as amended, and to seek additional or different terms that would, consistent with the public interest, address any threat to their ability to enforce the laws, preserve the national security and protect the public safety raised by the transactions underlying such applications or petitions.

7.3 **CFIUS**. Upon execution of this Agreement, DHS, DOJ, FBI, and DOD shall not object to termination of review under Exon-Florio concerning the acquisition of the TGN by VSNL and other companies affiliated with VSNL, unless:

- (a) VSNL, VSNL America, or VSNL US fails to comply with the material terms of this Agreement;
- (b) DHS, DOJ, FBI, or DOD learns that the representations made to DHS, DOJ, FBI, or DOD by VSNL, VSNL America, or VSNL US during the negotiation of the Agreement or in the Agreement itself are materially untrue or incomplete; or
- (c) there is any material change in the circumstances associated with the acquisition of the TGN by VSNL and other companies affiliated with VSNL, where such change affects national security.

For the avoidance of doubt, nothing in this Article shall expand, limit, or otherwise affect in any way the rights and remedies available to DHS, DOJ, FBI, and DOD under Section 721 of the Defense Production Act of 1950 as amended, codified at 50 U.S.C. App. § 2170, or 31 C.F.R. Part 800.

ARTICLE 8: OTHER

8.1 **Right to Make and Perform Agreement**. VSNL, for itself and for VSNL America and VSNL US, represents that it has and shall continue to have throughout the term of this Agreement the full right to enter into this Agreement and perform its obligations hereunder and that this Agreement is a legal, valid, and binding obligation of VSNL and VSNL America and VSNL US, enforceable in accordance with its terms.

8.2 **Headings**. The Article and section headings and numbering in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of the terms of this Agreement.

8.3 **Other Laws**. Nothing in this Agreement is intended to limit or constitute a waiver of (a) any obligation imposed by any U.S. federal, state or local laws on VSNL, VSNL America or VSNL US, including the International Traffic in Arms Regulations, 22 C.F.R., Parts 120 through 130, and the Export Administration Regulations, 15 C.F.R., Parts 730 through 774, (b) any enforcement authority available under any U.S. or state laws, (c) the sovereign immunity of the United States, or (d) any authority the U.S. government may possess over the activities or facilities of VSNL America or VSNL US located within or outside the United States (including authority pursuant to the International Emergency Economic Powers Act). Nothing in this

Agreement is intended to or is to be interpreted to require the Parties to violate any applicable U.S. law.

8.4 **Statutory References.** All references in this Agreement to statutory provisions shall include any future amendments to such statutory provisions.

8.5 **Non-Parties.** Nothing in this Agreement is intended to confer or does confer any rights on any person other than the Parties and any Government Authorities entitled to effect Electronic Surveillance pursuant to Lawful U.S. Process.

8.6 **Entire Agreement; Modifications.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, whether oral or written, of the Parties with respect to the subject matter, including without limitation, that certain Agreement dated May 24, 2004 among VSNL America, VSNL, DOJ, FBI, and DHS (the "Prior Agreement"). This Agreement may only be modified by written agreement signed by all of the Parties. DHS, DOJ, FBI, and DOD agree to consider promptly and in good faith possible modifications to this Agreement if VSNL America or VSNL US believes that the obligations imposed on it under this Agreement are substantially more restrictive than those imposed on other U.S. and foreign licensed service providers in like circumstances in order to protect U.S. national security, law enforcement, and public safety concerns. Any substantial modification to this Agreement shall be reported to the FCC within thirty (30) days after approval in writing by the Parties.

8.7 **Severability.** The provisions of this Agreement shall be severable and if any provision thereof or the application of such provision under any circumstances is held invalid by a court of competent jurisdiction, it shall not affect any other provision of this Agreement or the application of any provision thereof.

8.8 **Changes in Circumstances for VSNL America or VSNL US.** DHS, DOJ, FBI, and DOD agree to negotiate in good faith and promptly with respect to any request by VSNL America or VSNL US for relief from application of specific provisions of this Agreement if there is a change in circumstances such that those provisions become unduly burdensome or have a demonstrably adverse effect on VSNL America's or VSNL US's competitive position.

8.9 **Changes in Circumstances for DHS, DOJ, FBI, or DOD.** If after the date that all the Parties have executed this Agreement, DHS, DOJ, FBI, or DOD finds that the terms of this Agreement are inadequate to address national security, law enforcement, or public safety concerns, then VSNL, VSNL America and VSNL US will negotiate in good faith to modify this Agreement to address those concerns.

8.10 **Counterparts.** This Agreement may be executed in one or more counterparts, including by facsimile, each of which shall together constitute one and the same instrument.

8.11 **Successors and Assigns.** This Agreement shall inure to the benefit of, and shall be binding upon, the Parties, and their respective successors and assigns. This Agreement shall also be binding on all subsidiaries, divisions, departments, branches, and other components or agents of VSNL America and VSNL US, and on all Affiliates of VSNL America and VSNL US, to the extent such Affiliates provide Domestic Communications (a "Covered VSNL Entity").

8.12 **Effectiveness of Article 8.** This Article 8, and the obligations imposed and rights conferred herein, shall be effective upon the execution of this Agreement by all the Parties.

8.13 **Effectiveness of Agreement.** Except as otherwise specifically provided in the provisions of this Agreement, the obligations imposed and rights conferred by this Agreement shall take effect upon the Effective Date.

8.14 **Suspension of Agreement and Obligations Hereunder.** With respect to a Covered VSNL Entity, this Agreement shall be suspended upon thirty (30) days notice to DHS, DOJ, FBI, and DOD if the Covered VSNL Entity does not provide Domestic Communications.

8.15 **Suspension of Agreement If No Foreign Ownership.** This Agreement shall be suspended in its entirety with respect to any Covered VSNL Entity no later than thirty (30) days after receipt from VSNL America or VSNL US of notice and documentation reasonably satisfactory to DHS, DOJ, FBI, and DOD that no foreign entity or combination of foreign entities (including one or more persons under common Control) either Controls the relevant Covered VSNL Entity or holds, directly or indirectly, a ten (10) percent or greater interest in the relevant Covered VSNL Entity; *provided, however,* this Agreement shall not be suspended with respect to a Covered VSNL Entity if and to the extent DHS, DOJ, FBI, and DOD notify the Covered VSNL Entity that one (1) or more of such entities have determined that suspension of this Agreement is not warranted in order to protect U.S. national security, law enforcement, and public safety concerns within such thirty (30) day period. If this Agreement is not suspended pursuant to this provision, DHS, DOJ, FBI, and DOD agree to consider promptly and in good faith possible modifications to this Agreement. Notwithstanding anything to the contrary in this Section 8.15, this Agreement shall remain in effect with respect to a Covered VSNL Entity for so long as (and the obligations of the Covered VSNL Entity shall not be suspended and any suspension of the obligations of the Covered VSNL Entity shall terminate if) VSNL or any other foreign entity or combination of foreign entities (including one or more persons under common Control) either Controls the Covered VSNL Entity or at any time holds or is a party to an agreement to hold, directly or indirectly, a ten (10) percent or greater interest in the Covered VSNL Entity or any transferee or assignee of the FCC licenses or authorizations held by the Covered VSNL Entity. Notwithstanding anything to the contrary in this Section 8.15, this Agreement shall remain in effect and shall in no case be suspended unless DHS, DOJ, FBI, or DOD acknowledge such suspension in writing to VSNL, VSNL America or VSNL US.

8.16 **Notice of Additional Services.** VSNL, VSNL America or VSNL US shall provide a minimum of thirty (30) days advanced notice to DHS, DOJ, FBI, and DOD in the event that VSNL, VSNL America, VSNL US or any Affiliate changes or intends to change the present plans set forth in the recitals to this Agreement such that the representations made therein are no longer fully accurate, true and complete.

[Signature Pages Follow]

This Agreement is executed on behalf of the Parties:

Videsh Sanchar Nigam Limited

Date: April 5, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: Company Secretary and VP (Legal)

VSNL America, Inc.

Date: April 5, 2005

By: /s/ Satish Ranade
Printed Name: Satish Ranade
Title: President

VSNL Telecommunications (US), Inc.

Date: April 5, 2005

By: /s/ N. Srinath
Printed Name: N. Srinath
Title: President

Federal Bureau of Investigation

Date: April 4, 2005

By: /s/ Patrick W. Kelley
Printed Name: Patrick W. Kelley
Title: Deputy General Counsel

Department of Homeland Security

Date: April 7, 2005

By: /s/ Tom Dinanno
Printed Name: Tom Dinanno
Title: Assistant Secretary for Infrastructure
Protection (Acting)

United States Department of Justice

Date: April 5, 2005

By: /s/ Laura H. Parks
Printed Name: Laura H. Parsky
Title: Deputy Assistant Attorney General, Criminal
Division

United States Department of Defense

Date: April 6, 2005

By: /s/ Dr. Linton Wells II
Printed Name: Dr. Linton Wells II
Title: Acting Assistant Secretary of Defense
(Networks and Information Integration)

EXHIBIT A
CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses transferred or assigned thereunder are subject to compliance with the provisions of the Agreement between Videsh Sanchar Nigam Limited, VSNL Telecommunications (US), Inc., and VSNL America, Inc., on the one hand, and the Department of Justice (the "DOJ"), including the Federal Bureau of Investigation (the "FBI"), and the Department of Homeland Security ("DHS"), and the Department of Defense ("DOD") on the other, dated April __, 2005, which Agreement is designed to address national security, law enforcement, and public safety concerns of DHS, DOJ, FBI, and DOD regarding the authority granted herein. Nothing in this Agreement is intended to limit any obligation imposed by Federal law or regulation including, but not limited to, 47 U.S.C. § 222(a) and (c)(1) and the FCC's implementing regulations.

EXHIBIT B

[ATTACH LIST OF TELEGLOBE AUTHORIZATIONS]

Section 214 Authorizations Held by Teleglobe America Inc.

FCC File Number	Summary
ITC-95-466	Authority to resell private lines not interconnected to public switched networks between the United States and international points, except Canada.
ITC-95-467	Authority to provide international services between the United States and international points through resale of international switched services.
ITC-95-468	Authority to resell private lines interconnected with the public switched network at one or both ends for provision of switched services between the United States and the United Kingdom.
ITC-96-074	Authority to resell interconnected private lines between the United States and Sweden for the provision of switched services.
ITC-96-452	Authority to provide limited global facilities-based services to all international points, except Canada.
ITC-96-410	Authority to acquire and operate facilities for the provision of international services between the United States and international points.
ITC-96-411	Authority to acquire and operate facilities for the provision of services between the United States and international points other than Canada using the CANUS-I cable system
ITC-96-412	Authority to lease private lines between the United States and Canada for provision of switched and private line services.
ITC-98-342; ITC-98-342A	Authority to construct, acquire, and operate capacity in a Digital Submarine Cable System, the AMERICAS-II Cable System.
ITC-214-19980527-00346	Authority to construct, acquire, and operate capacity in the Columbus-III cable system.

Submarine Cable Landing Licenses Held by Teleglobe America Inc.

Cable System	FCC File No.
China-US	SCL-LIC-19980309-00005
Americas-II	SCL-AMD-19980430-00006
Japan-US	SCL-LIC-19981117-00025
Columbus III	SCL-LIC-19980527-00007
TAT-14	SCL-LIC-19990303-00004
CANUS-I	SCL-LIC-19930503-00004

EXHIBIT C
CONDITION TO FCC AUTHORIZATION

IT IS FURTHER ORDERED, that this authorization and any licenses transferred or assigned thereunder are subject to compliance with the provisions of the Agreement, between Videsh Sanchar Nigam Limited, VSNL Telecommunications (US), Inc., and VSNL America, Inc., on the one hand, and the Department of Justice (the "DOJ"), including the Federal Bureau of Investigation (the "FBI"), and the Department of Homeland Security ("DHS"), and the Department of Defense ("DOD") on the other, dated April 7, 2005, as such Agreement was amended pursuant to an Amendment dated December 12, 2005 (collectively the "Agreement"), which Agreement is designed to address national security, law enforcement, and public safety concerns of DHS, DOJ, FBI, and DOD regarding the authority granted herein. Nothing in the Agreement is intended to limit any obligation imposed by Federal law or regulation including, but not limited to, 47 U.S.C. § 222(a) and (c)(1) and the FCC's implementing regulations.